

## **REMARKS**

### **I. Status of Claims.**

This application has been reviewed in light of the Office Action dated July 8, 2004. Claims 1-22 are presently pending. Claims 11 and 22 are amended in a manner that is believed to overcome rejections contained in the pending Office Action. No new matter or issues are believed to be introduced by this amendment. Support for the amendments are found throughout the specification, drawings and originally filed claims

### **III. Claims 11 and 22 rejected under 35 U.S.C. 112, second paragraph.**

The Examiner rejected claims 11 and 22 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regard as his invention.

Specifically, the Examiner stated that claim 11 is considered indefinite because it recites a step of chilling poultry and it is unclear where this step falls into the "method for recycling water..." as recited in parent claim 1. Applicants have amended claim 11 to more clearly define its invention and respectfully submit that this rejection has been overcome.

The Examiner further rejected claim 22 and stated that it is unclear where the step of introducing a surfactant into water takes place in the method of processing poultry. Applicants have amended claim 22 to more clearly define its invention and respectfully submit that this rejection has been overcome.

### **IV Claims 1-5, 10, 11 and 22 rejected under 35 USC 103 (a).**

The Examiner further rejected claims 1-5, 10, 11 and 22 under 35 U.S.C. 103 (a) as being unpatentable over U.S. Patent No. 4,790,943 to Dunn et al. (Dunn). Applicants respectfully traverse this rejection.

**A. Examiner's Rejection.** The Examiner stated that the rejected claims differ from Dunn by reciting that ozone is reacted with water to produce surfactants and reduce surface tension. The Examiner acknowledges that Dunn does not specifically discuss a reaction between the ozone and wastewater being treated and that Dunn is clearly concerned with using a strong oxidant to break emulsions and form flocs. The Examiner in forming her rejection stated that it would have been obvious to one of ordinary skill in the art, at the time the present invention was made, to have used the addition of ozone in the process of Dunn to produce surfactants by

reaction with the water, in order to assist with, or enhance the emulsion breaking and floc formation.

**B. Teachings of Dunn.** Dunn discloses a process for treating effluent water of a poultry processing plant for reuse in that plant. Dunn discloses and suggests a process where the effluent is treated with a strong oxidant and with a substance to substantially reduce the pH to less than 5.2 and preferably about  $3.0 \pm 0.5$  pH causing a floc to form together resulting in the destruction of bacteria and a breaking of the oils and greases found within the effluent water. Dunn has an extremely caustic water environment having a strongly acidic pH that causes this destruction.

**C. Deficiencies of Dunn.** Applicants' invention is not obvious in light of Dunn as the claimed subject matter of the instant invention is not disclosed or suggested by Dunn. The patent to Dunn suggests a process where "[t]he combined action of pH adjustment and the oxidant oxidizes the color of the waste water, breaks down the fat and grease emulsions, and creates a floc of the impurities (Dunn column 3, lines 31-34). The adjustment of the pH according to the disclosure of Dunn is to promote the formation of a floc containing impurities and not to treat recovered water to reduce impurities and provide disinfection by "reacting ozone with said recovered water to produce surfactants" as disclosed and claimed within the Applicants' invention. While the Examiner suggests that one skilled in the art would have known to take the process of Dunn and add ozone to the recovered water of Dunn, the Examiner has produced no reference or has pointed to no disclosure within Dunn that would have provided sufficient impetus to add an unmentioned and un-suggested step to Dunn to arrive at Applicants' claimed subject matter.

Since Applicants' claimed subject matter is not found in the art, it is fair to assume that in raising the obviousness rejection, the Examiner gleaned knowledge from Applicants' disclosure, contrary to well-established legal principles. Applicants respectfully request that the rejected claims be favorably reconsidered in light of well-established legal principles, which provide,

*"That one skilled in the art is not synonymous with obviousness.... That one can reconstruct and/or explain the theoretical mechanism of an invention by means of logic and sound scientific reasoning does not afford the basis for an obviousness conclusion unless that logic and reasoning also supplies sufficient impetus to have led one of ordinary skill in the art to combine the teachings of the reference to make the claimed invention" Ex parte Levengood, 28 USPQ 2d 1300 (Bd. Pat. App. & Inter. 1993).*

Applicants' claimed subject matter is neither taught nor suggested by Dunn. The disclosure of Dunn, as discussed above, does not provide "sufficient impetus" to support the scenario that the Examiner makes to effect the obviousness rejection. In the absence of any other reference, only applicants' own disclosure could provide this motivation and that is an improper use of Applicants' specification. Applicants respectfully request that the rejection under 35 USC §103 (a) be withdrawn.

**V Claims 6-9 Objected To As Being Dependent Upon Rejected Claim 1**

The Examiner objected to claims 6-9 and 12 as being dependent upon a rejected base claim, namely claim 1. Applicants traverse this objection. Applicants respectfully submit that claim 1 because of the reasons set forth above is patentable over the cited art and is in condition for allowance. Applicants respectfully request that this objection be withdrawn.

**VI. Claims 13-21 Allowed**

The Examiner indicated that claims 13-21 are allowable over the prior art. Applicants thank the Examiner for her diligence in the examination of this Application and the allowance of these claims.



**CONCLUSION**

Accordingly, it is believed that in view of the above amendments and comments all claims remaining in the application are in condition for allowance, and therefore reconsideration and allowance are earnestly solicited. If the Examiner feels that a telephone conference would expedite prosecution of this case, or resolve any remaining issues, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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